

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

KEVIN BRATCHER,

No. 3:20-cv-2056-SB

Plaintiff,

ORDER

v.

POLK COUNTY; CITY OF SALEM;  
DEPUTY MICHAEL H. SMITH, in his  
individual capacity; and DOES 1-2, in  
their individual capacity,

Defendants.

HERNÁNDEZ, District Judge:

Magistrate Judge Beckerman issued a Findings and Recommendation on September 1, 2022, in which she recommends that the Court grant Defendant City of Salem's motion for summary judgment and deny Defendant Polk County and Defendant Michael H. Smith's (collectively, "County Defendants") motion for summary judgment. F&R, ECF 67. The matter is

now before the Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Because no objections to the Magistrate Judge’s Findings and Recommendation were timely filed, the Court is relieved of its obligation to review the record *de novo*. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988) (*de novo* review required only for portions of Magistrate Judge’s report to which objections have been made).

Upon reviewing the legal principles *de novo*, the Court makes one clarification. The Court adopts the Magistrate Judge’s recommendation to grant summary judgment for City Defendants on Plaintiff’s claim under 42 U.S.C. § 1983 because of Plaintiff’s failure to name the individual “Doe” Defendants. And the Court denies Plaintiff leave to amend his Complaint under Federal Rule of Civil Procedure 15(a) based on the factors of undue delay and futility. *See Foman v. Davis*, 371 U.S. 178, 182 (1962). The Court clarifies that Plaintiff’s failure to name the individual “Doe” Defendants is not a valid reason to grant summary judgment for Defendants on the state-law tort claims brought against the City of Salem under a respondeat superior theory. The Court, however, adopts the Magistrate Judge’s recommendation to grant summary judgment for Defendant City of Salem on the state-law claims based on substantive grounds.

///

///

///

///


///

**CONCLUSION**

The Court adopts Magistrate Judge Beckerman's Findings and Recommendation [67]. Accordingly, Defendant City of Salem's Motion for Summary Judgment [30] is GRANTED, and County Defendants' Motion for Summary Judgment [34] is DENIED.

IT IS SO ORDERED.

DATED: November 23, 2022.

  
\_\_\_\_\_  
MARCO A. HERNÁNDEZ  
United States District Judge